



# County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA  
Chief Executive Officer

October 22, 2010

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Third District

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To: Supervisor Gloria Molina, Chair  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

**MOTION TO SUPPORT PROPOSITION 25, WHICH CHANGES THE VOTE REQUIREMENT TO PASS A STATE BUDGET FROM TWO-THIRDS VOTE TO MAJORITY VOTE; AND OPPOSE PROPOSITION 26, WHICH REQUIRES CERTAIN STATE AND LOCAL FEES TO BE APPROVED BY TWO-THIRDS VOTE (ITEM NO. 10 - AGENDA OF OCTOBER 26, 2010)**

Item No. 10 on the October 26, 2010 Agenda is a motion by Supervisors Ridley-Thomas and Yaroslavsky to support Proposition 25 and oppose Proposition 26 on the November 2, 2010 General Election ballot, and instruct the Chief Executive Officer (CEO) to communicate these positions to the public, legislators, interested parties, and stakeholders.

## **Proposition 25**

Proposition 25 would amend the State Constitution to lower the vote requirement to pass a State Budget bill and related legislation from a two-thirds vote to a majority vote (50 percent plus one) of each house of the Legislature. A second component of the Proposition would prohibit members of the Legislature from collecting any salary or reimbursements for travel or living expenses in any year when the Legislature has not sent a State Budget bill to the Governor by the June 15<sup>th</sup> constitutional deadline.

## **Legislative Analyst's Office Report**

According to the Legislative Analyst's Office (LAO), since 1980, the Legislature has met the June 15<sup>th</sup> constitutional deadline for sending a State Budget to the Governor five times. During that 30-year period, a final State Budget passed by the Legislature and approved by the Governor was in place prior to the start of the fiscal year on ten occasions, including three times since 2000. While the Constitution has a date by which

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the Legislature must pass a State Budget, it does not have a specific date by which a final State Budget must be signed into law.

According to the Legislative Analyst's Office, Proposition 25 could make it easier for the Legislature to pass a State Budget and send it to the Governor. Given the current composition of each house, the lower vote requirement would allow members of the Legislature's majority party to approve a State Budget bill without the support of any members of the minority party. Currently, some members of the minority party must support a State Budget bill to reach the two-thirds vote requirement.

In addition, Proposition 25 also prohibits members of the Legislature from collecting any salary or reimbursements for travel or living expenses in any year when the Legislature has not sent a State Budget to the Governor by the June 15<sup>th</sup> constitutional deadline. According to the LAO, if approved, the Proposition would reduce State costs by about \$50,000 per day from compensation costs in any year the Legislature does not meet the June 15<sup>th</sup> deadline.

### **County Impact**

While Proposition 25 does not directly affect the County, the late enactment of the State Budget results in significant delayed State reimbursements of various County-administered programs, such as CalWORKs, Child Development, payments to Medi-Cal Institutional providers, and Transportation. As an example, the late enactment of the 2010-11 State Budget resulted in the State delaying for 90 days an \$82.7 million payment to the County for the CalWORKs Program.

**Support for the first component of Proposition 25, which would change the vote requirement to pass a State Budget from a two-thirds vote to a majority vote, is consistent with Board-approved policy to support a constitutional amendment to provide that the State Budget and related bills can be approved by a majority vote.**

**Because there is no existing Board policy to support proposals which would prohibit members of the Legislature from collecting any salary, travel reimbursements or living expenses when the Legislature has not passed a State Budget by the June 15<sup>th</sup> constitutional deadline, a position on this element of Proposition 25 is a matter for Board policy determination.**

### **Support and Opposition**

According to proponents of Proposition 25, the measure is supported by California State Treasurer Bill Lockyer, California Federation of Teachers, United Nurses Associations

of California, Union of Health Care Professionals, League of Women Voters of California, American Federation of State, County, and Municipal Employees, the California Alliance for Retired Americans, and Consumer Federation of California.

According to opponents of Proposition 25, the measure is opposed by the Howard Jarvis Taxpayers Association, California Chamber of Commerce, California Taxpayers' Association, Citizens for California Reform, Small Business Action Committee, National Federation of Independent Business/California, and the Latin Business Association.

### **Proposition 26**

Proposition 26 would amend the State Constitution to expand the definition of a tax and a tax increase so that more proposals would require approval by two-thirds of the Legislature or by local voters. Specifically, the measure would: 1) classify as taxes some fees and charges that government currently may impose with a majority vote resulting in more State revenue proposals requiring approval by two-thirds of each house of the Legislature and more local revenue proposals requiring two-thirds voter approval; 2) require a two-thirds vote of each house of the Legislature to approve laws that increase taxes on any taxpayer, even if the law's overall fiscal effect does not increase State revenues; and 3) repeal recent State laws, effective November 2011, that conflict with this measure unless they are approved again by two-thirds of each house of the Legislature.

### **Legislative Analyst's Office Report**

According to the Legislative Analyst's Office, most of the fees and charges that Proposition 26 would reclassify as taxes address health, environmental, or other societal or economic concerns. For example, hazardous materials fees imposed on businesses that use such materials are primarily used to clean up toxic waste sites. Local examples that might be reclassified under this measure include business assessments and the fees that some cities impose on stores that sell alcohol.

State Laws in Conflict with Proposition 26. The measure specifies that State laws that result in any taxpayer paying a higher tax must be approved by two-thirds of each house of the Legislature. Any law adopted between January 1, 2010 and November 2, 2010 that conflicts with Proposition 26 would be repealed one year after the Proposition is approved. However, this repeal would not take place if two-thirds of each house of the Legislature passed the law again.

According to the Legislative Analyst's Office, the full range of State laws that could be affected or repealed by Proposition 26 cannot be determined and parts of the measure would likely be subject to future interpretation by the courts.

Fiscal Effects. The measure would make it more difficult for State and local governments to pass new laws that raise revenues by expanding the scope of what is considered a tax. This change would affect many environmental, health, and other regulatory fees, as well as some business assessments and other levies. New laws to create or extend these types of fees and charges would be subject to the higher approval requirement for taxes. The fiscal effect of this change would depend on future actions by the Legislature, local governing boards, and local voters. If the increased voting requirements resulted in some proposals not being approved, government revenues would be lower than otherwise would have occurred with comparable decreases in State spending.

The Legislative Analyst's Office indicates that given the range of fees and charges that would be subject to the higher approval threshold for taxes, the fiscal effect of this change could be major. Additionally, the LAO estimates that, over time, the measure could reduce government revenues and spending statewide by up to billions of dollars annually.

### **County Impact**

The Department of Public Works (DPW) indicates that if Proposition 26 is approved, the County would lose its share of the new 17.3-cent gasoline excise tax revenue, approximately \$61.0 million annually, for the maintenance and operation of streets and roads in the unincorporated areas of the County. Additionally, DPW indicates that it would be extremely difficult to once again secure the necessary two-thirds vote by the Legislature for the fuel tax increase to remain in place.

Based on the Department of Public Works' assessment of the measure, Proposition 26 should not jeopardize many of the current fees DPW collects to provide services that protect public health and safeguard the environment; however, given the vague language there may be uncertainty and risk of challenges to some new fees and fee increases. For example, the Solid Waste Management Fee collected from landfills, waste-to-energy facilities, and waste haulers/transfer stations that export solid waste for disposal at landfills outside the County, may be impacted if Proposition 26 is approved. This revenue source provides the majority of funding for the countywide solid waste management planning activities.

According to the Department of Public Works, State funding would likely be impacted as well since the measure would affect the State's ability to administer certain types of

regulatory fees, such as the Oil Recycling Fee, which could then affect availability of funding. The State uses regulatory fees to pay for most of its environmental programs and subsidize grants to local governments. Currently, State funding subsidizes various County-operated programs, such as recycling, public education and outreach, special waste, and waste tire recycling.

The California State Association of Counties, which opposes the measure, indicates that Proposition 26 would enact new restrictions on county revenue authority.

**Opposition to Proposition 26, which would require certain State and local fees be approved by a two-thirds vote, is consistent with Board-approved policy to oppose proposals that increase the two-thirds vote requirement for increasing revenues.**

### **Support and Opposition**

According to proponents of Proposition 26, the measure is supported by the California Chamber of Commerce, California Taxpayers Association, Small Business Action Committee, Howard Jarvis Taxpayers Association, Americans for Tax Reform, and the Wine Institute.

According to opponents of Proposition 26, the measure is opposed by the California State Association of Counties, League of California Cities, League of Women Voters, American Lung Association, Sierra Club, Health Access California, California Tax Reform Association, California Professional Firefighters, and the Consumer Federation of California.

Item No. 10 on the October 26, 2010 Agenda also instructs the CEO to work with the Registrar-Recorder/County Clerk to report back to the Board within seven days on a more extensive analysis of the potential impact of passage and failure of Propositions 25 and 26 on the County's operations and budget process, and the impact to the County on the elections it would have to conduct if Proposition 26 is approved. The CEO is currently working with the Registrar-Recorder/County Clerk to provide the Board with the extensive analysis.

WTF:RA  
MR:OR:sb

c: Executive Office, Board of Supervisors  
County Counsel  
Registrar-Recorder/County Clerk